

**Representative Chad E. Bennion** proposes to substitute the following bill:

**TIMELY AGENCY REVIEW OF CERTAIN  
APPLICATIONS**

2001 GENERAL SESSION

STATE OF UTAH

**Sponsor: Chad E. Bennion**

**This act enacts statutes governing review and action by state agencies on applications and other requests for permits, licenses, and authorizations from state agencies. The act sets a time limit by which agency decisions are to be made, provides for relief to aggrieved citizens, and makes requirements applicable to pending applications. The act modifies the name and duties of the Administrative Rules Review Committee.**

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

**63-46a-11**, as last amended by Chapter 332, Laws of Utah 1998

ENACTS:

**63-98-101**, Utah Code Annotated 1953

**63-98-102**, Utah Code Annotated 1953

**63-98-201**, Utah Code Annotated 1953

**63-98-301**, Utah Code Annotated 1953

*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **63-46a-11** is amended to read:

**63-46a-11. Administrative Rules Review Committee.**

(1) (a) There is created an Administrative Rules and Regulatory Permit Review Committee of ten permanent members and four ex officio members.

(b) (i) The committee's permanent members shall be composed of five members of the Senate, appointed by the president of the Senate, and five members of the House, appointed by the



speaker of the House, with no more than three senators and three representatives from the same political party.

(ii) The permanent members shall convene at least once each month as a committee to review new agency rules, amendments to existing agency rules, and repeals of existing agency rules and to adjudicate, as required by Section 63-98-301, agency failures to grant regulatory permits within the time limits established by Section 63-98-201. Meetings may be suspended at the discretion of the committee chairs.

(iii) Members shall serve for two-year terms or until their successors are appointed.

(iv) A vacancy exists whenever a committee member ceases to be a member of the Legislature, or when a member resigns from the committee. Vacancies shall be filled by the appointing authority, and the replacement shall serve out the unexpired term.

(c) When the committee reviews existing rules, the committee's permanent members shall invite the Senate and House chairmen of the standing committee and the Senate and House chairmen of the appropriation subcommittee that have jurisdiction over the agency whose existing rules are being reviewed to participate as nonvoting, ex officio members with the committee.

(d) Three representatives and three senators from the permanent members are a quorum for the transaction of business at any meeting.

(2) Each agency rule as defined in Section 63-46a-2 shall be submitted to the committee at the same time public notice is given under Section 63-46a-4.

(3) (a) The committee shall exercise continuous oversight of the process of rulemaking.

(b) The committee shall examine rules submitted by each agency to determine:

(i) whether or not they are authorized by statute;

(ii) whether or not they comply with legislative intent;

(iii) their impact on the economy and the government operations of the state and local political subdivisions; and

(iv) their impact on affected persons.

(c) To carry out these duties, the committee may examine any other issues that it considers necessary. The committee may also notify and refer rules to the chairmen of the interim committee which has jurisdiction over a particular agency when the committee determines that an issue involved in an agency's rules may be more appropriately addressed by that committee.

(d) In reviewing the rules, the committee shall follow generally accepted principles of

statutory construction.

(4) The committee may request that the Office of the Legislative Fiscal Analyst prepare a fiscal note on any rule.

(5) In order to accomplish its oversight functions, the committee has all the powers granted to legislative interim committees as set forth in Section 36-12-11.

(6) (a) The committee may prepare written findings of its review of each rule and may include any recommendations, including legislative action.

(b) The committee shall provide to the agency that enacted the rule:

(i) a copy of its findings, if any; and

(ii) a request that the agency notify the committee of any changes it makes in the rule.

(c) The committee shall provide a copy of its findings to any member of the Legislature and to any person affected by the rule who requests a copy.

(d) The committee shall provide a copy of its findings to the presiding officers of both the House and the Senate, Senate and House chairmen of the standing committee, and the Senate and House chairmen of the Appropriation Subcommittee that have jurisdiction over the agency whose rules are the subject of the findings.

(7) (a) The committee may submit a report on its review of state agency rules to each member of the Legislature at each regular session.

(b) The report shall include:

(i) the findings and recommendations made by the committee under Subsection (6);

(ii) any action taken by an agency in response to committee recommendations; and

(iii) any recommendations by the committee for legislation.

Section 2. Section **63-98-101** is enacted to read:

## **CHAPTER 98. UTAH FAIR GOVERNMENT PRACTICES ACT**

### **Part 1. General Provisions**

#### **63-98-101. Title.**

This chapter is known as the "Utah Fair Government Practices Act."

Section 3. Section **63-98-102** is enacted to read:

#### **63-98-102. Definitions.**

As used in this chapter:

(1) (a) "Agency" means the state of Utah or any department, division, or agency or other

administrative subunit of the state.

(b) "Agency" does not include:

(i) a court or other instrumentality of the judicial branch;

(ii) the Legislature or other instrumentality of the legislative branch;

(iii) a municipality, county, school district, or special district; or

(iv) an interlocal agency organized under Title 11, Chapter 13, Interlocal Cooperation Act, unless an agency is a member.

(2) "Applicant" means the person or entity applying for a permit.

(3) "Application" means an application, petition, notice of intent, request for agency action, or other request for a permit.

(4) "Complete application" means an application that contains all information sufficient to evaluate the application as required by the applicable statute or rule governing the content of the application.

(5) "Permit" means an approval, order, license, authorization, or other action by an agency granting a right or entitlement to a person under the laws of the state.

Section 4. Section **63-98-201** is enacted to read:

## **Part 2. Action on Applications**

**63-98-201. Time within which to decide application -- Calculation of time -- Submittal of amended application -- Applicability to pending applications.**

(1) State agencies shall act in a timely, efficient, and responsive manner in reviewing and making decisions on applications by its citizens for permits.

(2) (a) Except as provided in this Subsection (2), each agency shall grant or deny each application for a permit by a date no later than one year after the date a complete application is submitted to the agency.

(b) For purposes of this chapter, the calculation of the time spent by an agency in deciding to grant or deny a permit does not include any time spent in an appeal of the final decision of the agency to an administrative board or other reviewing authority.

(c) If an applicant submits an amended application that contains substantive changes to the original application, the one-year time limit within which to make a decision to grant or deny the application shall begin on the date of submittal of the amended complete application.

(d) If both the applicant and agency sign a written stipulation agreeing to a new date by

which the agency must grant or deny an application for a permit, that new date supersedes the one year date required by Subsection (1)(a).

(3) An agency may not deny an application merely because the time period established by this section has expired.

(4) This chapter applies to:

(a) each application filed after May 1, 2001; and

(b) each complete application pending before an agency on May 1, 2001.

(5) The requirements of this section do not apply to:

(a) enforcement actions initiated by an agency;

(b) judicial or quasi-judicial proceedings of boards or commissions; or

(c) review of applications when statutes or rules expressly require or allow review periods of more or less than one year.

Section 5. Section **63-98-301** is enacted to read:

### **Part 3. Remedies**

#### **63-98-301. Request and review by Administrative Rules and Regulatory Permit Review Committee.**

(1) If an agency fails to grant or deny a complete application for a permit within the time period established by Subsection 63-98-201((2), the applicant may submit a request for review to the Administrative Rules and Regulatory Permits Review Committee.

(2) When the committee receives the request, the chairs of the committee shall place the issue on an agenda to be considered at a meeting held within 30 days from the date the committee receives the request.

(3) At the meeting, the committee shall hear testimony from the applicant and from the agency.

(4) The agency failing to make the decision shall report to the committee its reasons for failing to make a timely decision.

(5) If the committee finds, by substantial evidence, that the agency has failed to grant or deny a permit within the time limits established by Section 63-98-201, the committee shall direct the agency to refund the applicant's permit or application fee.